

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RALPH HARDY, JR.,

Plaintiff,

-v.-

9:08-CV-01352
(GLS)

MID-STATE CORRECTIONAL FACILITY; *et al.*,

Defendants.

APPEARANCES:

RALPH HARDY, JR.

05-R-2302

Plaintiff, *pro se*

GARY L. SHARPE, U.S. DISTRICT JUDGE

DECISION and ORDER

The Clerk has sent to the Court a civil rights complaint, together with an application to proceed *in forma pauperis*, filed by plaintiff Ralph Hardy, who is currently incarcerated at Mid-State Correctional Facility.

A. Plaintiff's Complaint.

In his *pro se* complaint, plaintiff alleges that the defendants have been deliberately indifferent to his serious medical needs. Plaintiff seeks monetary damages.¹

The Court also notes that plaintiff has named "Mid-State Correctional Facility" as defendant to this action. However, Mid-State Correctional Facility is an agency of the State, and as such is entitled to sovereign immunity under the Eleventh Amendment to the United States Constitution. See, *Proctor v. Vadlamudi*, 992 F. Supp 156 (N.D.N.Y. 1997)(Pooler, J.) Accordingly, Mid-State Correctional Facility will be dismissed from this

¹The Court notes that the body of the complaint references exhibits. However, no exhibits were annexed to the complaint filed with this Court.

action.

B. Application to Proceed *In Forma Pauperis*.

As to plaintiff's *in forma pauperis* application, after reviewing the entire file, the Court finds that the plaintiff may properly proceed with this matter *in forma pauperis*.

WHEREFORE, it is hereby

ORDERED, that Mid-State Correctional Facility is dismissed as a defendant in this action, and it is further

ORDERED, that plaintiff's *in forma pauperis* application (Dkt. No. 2) is GRANTED.²

The Clerk shall issue summonses and forward them, along with copies of the complaint, to the United States Marshal for service upon the defendants. The Clerk shall forward a copy of the summons and complaint by mail to the Office of the New York State Attorney General; and it is further

ORDERED, that the Clerk provide the Superintendent of the facility, designated by plaintiff as his current location, with a copy of plaintiff's authorization form and notify the official that this action has been filed and that plaintiff is required to pay the entire statutory filing fee of \$350.00 pursuant to 28 U.S.C. § 1915; and it is further

ORDERED, that the Clerk provide a copy of plaintiff's authorization form to the Financial Deputy of the Clerk's Office; and it is further

ORDERED, that a response to plaintiff's complaint be filed by the defendants or their counsel as provided for in the Federal Rules of Civil Procedure after service of

² Plaintiff should note that although the application to proceed *in forma pauperis* has been granted, plaintiff will still be required to pay fees that he may incur in this action, including copying and/or witness fees.

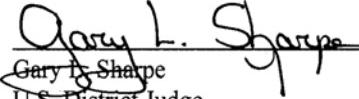
process on the defendants; and it is further

ORDERED, that all pleadings, motions and other documents relating to this action be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of it was mailed to all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a certificate of service showing that a copy was served upon all opposing parties or their attorneys will be returned, without processing. Plaintiff must comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions. Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel of any change in plaintiff's address; his failure to do so will result in the dismissal of this action. All motions will be decided on submitted papers without oral argument unless otherwise ordered by the Court; and it is further

ORDERED, that the Clerk serve a copy of this Decision and Order on the plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: January 7, 2009


Gary L. Sharpe
U.S. District Judge